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REMARKS

Applicants thank the Examiner for the Office Communication mailed from the USPTO on February 6, 2008, in response to the Amendment and Reply to Restriction Requirement mailed to the USPTO on November 6, 2007.

The Examiner pointed out two possible issues with the Amendment and Reply to Restriction Requirement.

Dependent Method Claims

The Examiner stated, "Dependent claims 27-38 recite method steps which cannot be performed as written. . . The steps cannot be performed in this order."

It appears that the Examiner was objecting to the order of the steps in Claims 27-38, which, as the Examiner interpreted, is indicated by the lettering of the steps.

Claims 27-38 have been amended to more clearly define Applicants' invention, and more specifically define steps for carrying out step (a) of Claim 22. The method steps recited in amended Claims 27-38 can be performed as written. No new matter has been added. Entry is respectfully requested.

Sequence Election with Traversal

The Examiner stated, "Applicants fail to elect a single sequence and SNP marker for initial search and examination. Applicants indicate a provisional election of SEQ ID NO:1, but claim 22 does not reflect this election."

New Claims 40-67 have been added to more clearly define Applicants' invention. Support for new Claims 40-67 can be found, e.g., in Table 1 and Claims 1-2 as filed. No new matter has been added. Entry is respectfully requested.

New Claim 40 reflects Applicants' provisional election of SEQ ID NO:1 for initial search and examination.

Claims readable on the elected sequence, i.e., SEQ ID NO:1, include Claims 22-40.

In light of the instant amendments to the claims, claims readable on the species provisionally elected in the Amendment and Reply to Restriction Requirement mailed to the

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USPTO on November 6, 2007, i.e., "g. the method variation of claim 10," include Claims 22-26, 34, 38-67.

As discussed in the Amendment and Reply to Restriction Requirement mailed to the USPTO on November 6, 2007, the requirement for election of a single nucleic acid sequence is being traversed. The Amendment and Reply to Restriction Requirement mailed to the USPTO on November 6, 2007, set forth several reasons for the traversal in detail. Applicants would like to reiterate and expand some of the reasons for the Examiner's reconsideration.

The claimed method needs an appropriate combination of polymorphisms selected from those listed in Table 1 in order to distinguish with certainty among a number of rice varieties.

For example, for argument's sake, if only position 593 of SEQ ID NO:1 is used, and a test rice has been determined to have the nucleotide C at position 593 of SEQ ID NO:1. Given only the information of SEQ ID NO:1 and the SNP therein, one of ordinary skill in the art would not be able to identify with certainty what rice variety the test rice is, because among the 26 rice varieties listed in Table 1, 12 varieties have the nucleotide C at position 593 of SEQ ID NO:1. In order to identify the test rice with certainty, information about other SNPs needs to be known. For example, if the test rice also has the nucleotide T at position 248 of SEQ ID NO:25, then the test rice can be identified with certainty as the variety Akebono ("akb"). Some of the rice varieties in Table 1 even require at least three SNPs in combination to be identified with certainty, e.g., the variety Tsugaruroman ("tgr").

Therefore, the election of only one sequence would make the method meaningless, or even make it impossible to carry out.

In addition, it should be noted that elected Group I is not drawn to amino acid sequences or nucleotide sequences, but to a method of distinguishing between rice varieties using SEQ ID NOs:1-28. MPEP 803.04 addresses nucleotide sequence claims, i.e., composition claims, not method claims. Therefore, MPEP 803.04 is not applicable in the instant case.

For the reasons set forth above and in the Amendment and Reply to Restriction Requirement mailed to the USPTO on November 6, 2007, Applicants respectfully request that all sequences (SEQ ID NOs:1-28) be examined together.

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REQUEST FOR TELEPHONIC INTERVIEW

Applicants' Attorney requests a telephonic interview with the Examiner. The purpose of the interview is to provide Applicants' Attorney with an opportunity to discuss with the Examiner the difference between the instant application and a typical application related to SNPs, and the need in the instant application to examine all sequences (SEQ ID NOs:1-28) together. The Examiner is requested to call the undersigned attorney after reviewing this Supplemental Amendment.

Respectfully submitted,

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